

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of Various)	
Authorizations in the Wireless Radio Services)	
Applicant for Modification of Various Authorizations)	
in the Wireless Radio Services;)	
)	
Applicant with ENCANA OIL AND GAS (USA), INC.;	)	Application File Nos.
DUQUESNE LIGHT COMPANY; DCP	)	0004030479, 0004144435,
MIDSTREAM, LP; JACKSON COUNTY RURAL	)	0004193028, 0004193328,
MEMBERSHIP ELECTRIC COOPERATIVE; PUGET	)	0004354053, 0004309872,
SOUND ENERGY, INC.; ENBRIDGE ENERGY	)	0004310060, 0004314903,
COMPANY, INC.; INTERSTATE POWER AND	)	0004315013, 0004430505,
LIGHT COMPANY; WISCONSIN POWER AND	)	0004417199, 0004419431,
LIGHT COMPANY; DIXIE ELECTRIC	)	0004422320, 0004422329,
MEMBERSHIP CORPORATION, INC.; ATLAS	)	0004507921, 0004153701,
PIPELINE—MID CONTINENT, LLC; DENTON	)	0004526264, 0004636537,
COUNTY ELECTRIC COOPERATIVE, INC., DBA	)	and 0004604962
COSERV ELECTRIC; AND SOUTHERN)	
CALIFORNIA REGIONAL RAIL AUTHORITY)	
)	
For Commission Consent to the Assignment of Various)	
Authorizations in the Wireless Radio Services)	

To: Marlene H. Dortch, Secretary
Attn: The Honorable Richard L. Sippel, Chief Administrative Law Judge

MOTION FOR PARTIAL SUMMARY DECISION

Maritime Communications/Land Mobile, LLC (Maritime), pursuant to Section 1.251(a)(1) of the Commission's Rules and Regulations, 47 C.F.R. § 1.251(a)(1) (2011), hereby respectfully requests partial summary decision in the captioned matter. Specifically, as to the particular licenses listed in Exhibit 1, appended hereto, Maritime seeks a summary decision resolving the question whether the facilities were timely constructed in accordance with Section 80.49 of the Commission's Rules, 47 C.F.R. § 80.49.

I. INTRODUCTION

1. What has come to be referred to as Issue G in this proceeding is: “To determine whether Maritime constructed or operated any of its stations at variance with sections 1.955(a) and 80.49(a) of the Commission's rules.” *Maritime Communications/Land Mobile, LLC, Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing* (FCC 11-64), 26 FCC Rcd 6520, 6547 ¶ 62(g) (2011) (hereinafter cited as “*Hearing Designation Order*”). There are two parts to this issue, as follows: (a) whether any of “Maritime's licenses for site-based AMTS stations have canceled automatically because [the] stations ... were never [timely] constructed,” *id.*, 26 FCC Rcd at 6547 ¶ 61, and (b) whether any of Maritime’s site-based licenses has automatically cancelled “because operation of the stations has been permanently discontinued.” *Id.*

2. Maritime herein seeks partial summary determination on the first part of Issue G, regarding initial construction, with respect to the authorizations listed in Exhibit 1. These authorizations were initially issued to Waterway Communications System, Inc. (“Watercom”), and are hereinafter referred to as the “Watercom Licenses”). The facilities authorized by the Watercom Licenses shall hereinafter be referred to as the “Watercom Stations”. It is demonstrated herein that the Presiding Judge should find that the Watercom Stations were originally constructed within the prescribed time and that there is no further need to litigate the first part of Issue G as it relates to them. See Section III, below.

3. Maritime also seeks partial summary decision as to all of Issue G with respect to the authorizations listed in Exhibit 2. These are so-called “incumbent (site-based) AMTS authorizations that Maritime has voluntarily submitted applications to cancel or delete, because they are now entirely subsumed within geographic (auctioned) licenses held by Maritime. These authorizations will be referred to herein as the “Subsumed Incumbent Licenses” Maritime and

the Bureau have stipulated that these authorizations are deemed to be deleted for purposes of this proceeding. Issue G in its entirety is therefore moot as to the Subsumed Incumbent Licenses, and there is no need to pursue further litigation in this regard. See Section IV, below.¹

II. PROCEDURAL HISTORY OF THE WATERCOM LICENSES

4. The procedural history set forth in this section of the motion involves licensing actions by the Commission, on the public record, and are therefore all matters of which the Presiding Judge may take Official Notice.

5. The Watercom Licenses were initially issued to Waterway thirty years ago, in 1982, and authorized operation on Spectrum Block A. *Waterway Communications System, Inc., Memorandum Opinion and Order* (FCC 82-360; rel. Aug. 11, 1982).

6. In 1984 the Commission added authority for Spectrum Block B. *Waterway Communications System, Inc., Memorandum Opinion and Order* (FCC 87-373), 2 FCC Rcd 7317 at ¶ 14 (1987).

7. The Watercom Stations were licensed on a system basis, and Watercom was afforded its full five-year license term, until August 11, 1987, to complete construction. *Waterway Communications System, Inc., Memorandum Opinion and Order* (FCC 87-373), 2 FCC Rcd 7317 at ¶ 14 (1987).

8. The Commission renewed the Watercom Licenses for a second term in 1987. *Waterway Communications System, Inc., Memorandum Opinion and Order* (FCC 87-373), 2 FCC Rcd 7317 (1987).

¹ For informational purposes, the Commission has granted Maritime's applications to cancel in their entirety the following authorizations, they are no longer effective, and all issues in this hearing proceeding are moot insofar as these call signs are concerned: KA98265, KCE278, KPB531, KUF732, WFN, WHW848, WHX877, and WRD580. Stations KCE728, KPB531, and KUF532 are entirely subsumed by Maritime geographic licenses. The remaining call signs were for mobile-only, auxiliary, or non-AMTS frequencies no longer needed.

9. The Commission renewed the Watercom Licenses for a third term in 1992 (FCC File Nos. R868847 through R868899).

10. The Commission renewed the Watercom Licenses for a fourth term in 1997 (FCC File Nos. R998712 through R998765).

11. In 2000, Mobex Communications, Inc. acquired control of Watercom pursuant to Commission authority granted in FCC File Nos. 912362 through 912417.

12. In 2001 the Watercom Licenses were assigned to Regionet Wireless License, LLC (a subsidiary of Mobex Communications, Inc.) pursuant to authority granted in FCC File Nos. 853506 through 853558 & 853585. The licensee name was later changed to Mobex Network Services, Inc.

13. In 2003, the Watercom Licenses were renewed for a fifth term, expiring on December 10, 2012. FCC File Nos. 0001082496 through 0001082548.

14. On December 30, 2005, the Watercom Licenses were assigned to Maritime, pursuant to Commission Authority granted in FCC File No. 0002197542.

15. After commencement of the Maritime Chapter 11 bankruptcy proceedings in August 2011, the Commission was timely notified of the pro forma involuntary assignment of the authorizations to Maritime Communications/Land Mobile, LLC, Debtor-in-Possession, the current licensee. FCC File No. 0004851459.

III. TIMELY CONSTRUCTION OF THE WATERCOM STATIONS WAS DEFINITELY ESTABLISHED BY FINAL COMMISSION ORDER IN 1987.

16. Exhibit 3 is the sworn declaration of Robert T. Smith, an engineer currently employed by Maritime, who was previously employed by Watercom. Mr. Smith states that the Watercom Stations were constructed and in operation when he began his employment with Watercom in November of 1987.

17. Mr. Smith states that Watercom had contracted with Tracor, Inc., for the design and implementation of its AMTS system. Tracor subcontracted the physical construction of the fixed radio stations to U.S. Tower, a firm based in Frederick, Maryland.

18. It is a matter of public record that, during the time in question (circa. 1982-1987), Tracor, Inc. was a publicly traded defense and electronics contractor, and that it was acquired by a subsidiary of General Electric Company in 1998.

19. In its 1997 order renewing the Watercom Licenses, the Commission specifically and expressly stated: “Watercom was required to meet a schedule of construction, regularly kept us apprised of the status of construction and put the system into operation within the time we had allowed. So there can be no question of spectrum hoarding or other dereliction in its inauguration of service.” *Memorandum Opinion and Order* (FCC 87-373), 2 FCC Rcd 7317 at ¶ 14 (1987). A copy of this order is appended for convenient reference as Exhibit 4 hereto.

IV. ISSUE G IS MOOT AS TO THE SUBSUMED INCUMBENT LICENSES.

20. In Spectrum Auction No. 61 (August 3-17, 2005), Maritime was the high bidder for and was eventually granted four geographic AMTS licenses on frequency Block A, as follows: WQGF315 (Mid-Atlantic, Market AMT002), WQGF316 (Mississippi River, Market AMT004), WQGF317 (Great Lakes, Market AMT005), and WQGF318 (Southern Pacific, Market AMT006). Each of the Subsumed Incumbent Licenses listed in Exhibit 2 is for authority on the same frequency range (AMTS Block A) as one of these listed geographic licenses. The service area “footprint” (38 dBu contour) for the incumbent station is entirely contained within the authorized area of that geographic license. Thus, the authority conferred by the Subsumed Incumbent Licenses is entirely duplicated by the geographic licenses. Even if these incumbent licenses are terminated, therefore, Maritime will continue to hold authority for the same spectrum and coverage area by virtue of the subsuming geographic licenses.

21. In view of this fact, Maritime has voluntarily submitted applications to cancel these authorizations, or to modify them to delete from the authorizations the portions (frequency block and/or specific location number) that are subsumed. Exhibit 5 hereto is a listing by call sign, showing the file number and status of each application to cancel or delete the Subsumed Incumbent Licenses.

22. On May 31, 2012, the Enforcement Bureau submitted the *Limited Joint Stipulation Between Enforcement Bureau and Maritime and Proposed Schedule* (hereinafter, “Joint Stipulations”). A copy is appended hereto as Exhibit 6. On June 7, 2012, Maritime filed its *Verification and Signature of Joint Stipulations*. A copy is appended hereto as Exhibit 7.

23. On May 31, 2012, the Enforcement Bureau submitted the *Limited Joint Stipulation Between Enforcement Bureau and Maritime and Proposed Schedule* (hereinafter, “Joint Stipulations”), a copy of which is appended hereto as Exhibit 3. On June 7, 2012, Maritime filed a *Verification and Signature of Joint Stipulations*, a copy of which is appended hereto as Exhibit 5. Insofar as pertinent to this motion, it is stipulated that each of the Subsumed Incumbent Licenses “shall be treated as deleted.” *Joint Stipulations* at ¶¶ 5-7, pp. 3-4.

24. As to each site-based license, the ultimate determination to be made under Issue G is whether it has automatically terminated and should be deleted. Insofar as Maritime has voluntarily submitted applications to delete the authority granted by the Subsumed Incumbent Licenses, and insofar as the Bureau and Maritime have stipulated that such authority shall be treated as deleted, there is nothing further to litigate under Issue G with respect to the Subsumed Incumbent Licenses.

V. SUMMARY JUDGEMENT IS PROPER AS A MATTER OF LAW.

25. Whether Issue G is viewed as a single issue with two parts, or as two separate issues contained in a single subparagraph of the *Hearing Designation Order*, the use of summary

decision to resolve the question of timely construction of some of the facilities is appropriate.

Section 1.251(a) of the Rules provides that a party may “move for summary decision of all *or any* of the issues set for hearing.” 47 C.F.R. § 1.251(a)(1) (emphasis added). In adopting Section 1.251, the Commission expressly acknowledged that “some of the issues in a complex proceeding may be appropriate for summary decision, though the case as a whole is not.”

Summary Decision Procedures, Docket No. 19141, *Report and Order*, 34 F.C.C.2d 485, 488 ¶ 6 (1972). Summary decision has been used to resolve on one aspect of single issue. E.g., *Memorandum Opinion and Order* (FCC 91M-3180; rel. Oct. 31, 1991) (partial summary decision granted on “availability of funds” under a financial qualifications, but not as to sufficiency of “cost estimates” under the same issue), summarized in *Katie F. Thomas*, MM Docket No. 90-501, *Initial Decision of ALJ Arthur I. Steinberg* (FCC 92D-52), 7 FCC Rcd 5141 at ¶ 3 (1992).

26. Summary decision is proper upon a showing “that there is no genuine issue of material fact for determination at the hearing.” 47 C.F.R. § 1.251(a)(1). The issue of whether the Watercom Stations were timely constructed need not be determined at hearing because it has already been determined by the Commission some 25 years ago. In considering, and granting, the application for renewal of the Watercom Licenses at the end of the initial license term, the Commission examined the facts and very clearly held that “Watercom ... put the system into operation within the time allowed,” and that there could be “no question” regarding this. *Waterway Communications System, Inc., Memorandum Opinion and Order* (FCC 87-373), 2 FCC Rcd 7317 at ¶ 14 (1987).

27. In the 25 years since that decision, Watercom Licenses have been renewed five times and control and/or ownership of the licenses changed at least three times before Maritime was even in existence. Whether it is proper to hold Maritime accountable for initial construction

of stations occurring decades ago, after multiple license terms, and by entities with which Maritime had no contractual privity is highly debatable. But this certainly may not be done where the Commission, in an adjudication that has been closed and final for decades, definitively and unequivocally determined that the facilities were in fact timely constructed.

28. “The primary purpose of [summary decision] procedures is to avoid needless and wasteful hearings.” *Midwest St. Louis, Inc.*, 79 FCC 2d 519, 529 (1980). It is certainly needless and wasteful to expend resources litigating a question that has already been finally adjudicated some 25 years ago. Even a partial summary decision will simplify the proceedings and reduce the expense of litigation.²

VI. CONCLUSION

Maritime has established that, as to the scope of the requested partial summary decision, there is no genuine issue of fact and that it is entitled to summary decision as a matter of law.

WHEREFORE, it is requested that the Presiding Judge issue a Partial Summary Decision, as follows, ordering as follows:

(a) That portion of Issue G inquiring whether the site-based AMTS facilities were timely constructed in accordance with Section 80.49(a) of the Commission’s Rules is resolved in favor of Maritime as to the licenses listed in Exhibit 1.

² Reducing unnecessary litigation and the associated expense is always a worthy public interest goal, but it is even more important, indeed imperative, where the licensee is in bankruptcy and pursuing Second Thursday relief. The Commission’s public interest obligation is to consider and accommodate federal bankruptcy policy, including the potential impact of its actions on innocent creditors. E.g., *LaRose v. FCC*, 494 F.2d 1145 (D.C. Cir. 1974). Even apart from Second Thursday considerations, minimizing regulatory expenses for a licensee in bankruptcy is in the public interest. E.g., *MobileMedia Corp.*, 14 FCC Rcd 8017, 8027 (1999) (Waiver of processing fees for licensee in bankruptcy serves public interest by preserving assets that will accrue to creditors); *Collection of Regulatory Fees for the 1994 Fiscal Year*, 10 FCC Rcd 12759, 12762 (1995) (Waiving regulatory fees for a licensee in Chapter 11 facilitates negotiations and efforts to sell license assets, thereby increasing the funds available for payment of creditors.).

(b) Issue G in its entirety is moot, and therefore terminated, with respect to the license listed in Exhibits 2 and 2A. As to Station WRV384, the locations listed in Exhibit 2 are deemed deleted from the authorization, and Commission staff will see that this is reflected in any dispositive action on the pending application for renewal, File No. 4738157.

(c) Any license or portion (i.e., frequency block or location) not listed in Exhibits 1, 2, or 3, and not disposed of in preceding paragraphs (a) and (b) remains effective and subject to this hearing proceeding.

Respectfully Submitted,

A handwritten signature in black ink, reading "Robert J. Keller", with a horizontal line underneath.

Robert J. Keller, Counsel for Maritime
Communications/Land Mobile, LLC

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Law Offices of Robert J. Keller, P.C.
PO Box 33428
Washington, D.C. 20033

Dated: August 31, 2012

EXHIBIT 1

The Watercom Licenses

Call Sign	City	County	State
WHG701	SANTA ROSA BEACH	WALTON	FL
WHG702	THEODORE	MOBILE	AL
WHG703	DELISLE	HARRISON	MS
WHG705	AMELIA	ASSUMPTION	LA
WHG706	INTRACOASTAL CITY	VERMILION	LA
WHG707	PORT ARTHUR	JEFFERSON	TX
WHG708	DICKINSON	GALVESTON	TX
WHG709	BAY CITY	MATAGORDA	TX
WHG710	ARANSAS PASS	SAN PATRICIO	TX
WHG711	RIVIERA	KLEBERG	TX
WHG712	JEFFERSON HEIGHTS	JEFFERSON	LA
WHG713	CARVILLE	IBERVILLE	LA
WHG714	REDWOOD	WARREN	MS
WHG715	WAYSIDE	WASHINGTON	MS
WHG716	LAKE CORMORANT	DESOTO	MS
WHG717	SAMBURG	OBION	TN
WHG718	ALTO PASS	UNION	IL
WHG719	MADONNAVILLE	MONROE	IL
WHG720	GRAFTON	JERSEY	IL
WHG721	SAVERTON	RALLS	MO
WHG722	ADRIAN	HANCOCK	IL
WHG723	REYNOLDS	ROCK ISLAND	IL
WHG724	MILES	JACKSON	IA
WHG725	SHERRILL	DUBUQUE	IA
WHG726	MIDWAY	MASSAC	IL
WHG727	HEBBARDSVILLE	HENDERSON	KY
WHG728	ELIZABETH	FLOYD	IN

Call Sign	City	County	State
WHG729	BEDFORD	TRIMBLE	KY
WHG730	INDEPENDENCE	KENTON	KY
WHG731	FAIRVIEW	ADAMS	OH
WHG732	LETITIA	GREENUP	KY
WHG733	GREASY RIDGE	LAWRENCE	OH
WHG734	MEREDOSIA	MORGAN	IL
WHG735	HANNA CITY	PEORIA	IL
WHG736	TONICA	LA SALLE	IL
WHG737	LOCKPORT	WILL	IL
WHG738	FORDS FERRY	CRITTENDEN	KY
WHG739	MOOLEYVILLE	BRECKINRIDGE	KY
WHG740	BASHAN	MEIGS	OH
WHG741	BROWNSVILLE	MONROE	OH
WHG742	LANSING	ALLAMAKEE	IA
WHG743	WITOKA	WINONA	MN
WHG744	DIAMOND BLUFF	PIERCE	WI
WHG745	LAUREL HILL	WEST FELICIANA	LA
WHG746	PINE RIDGE	ADAMS	MS
WHG747	RENA LARA	COAHOMA	MS
WHG748	FULTON	LAUDERDALE	TN
WHG749	SHADYSIDE	BELMONT	OH
WHG750	HOOKSTOWN	BEAVER	PA
WHG751	AVALON BEACH	SANTA ROSA	FL
WHG752	LAKE CHARLES	CALCASIEU	LA
WHG753	PORT LAVACA	CALHOUN	TX
WHG754	RAYMONDSVILLE	WILLACY	TX

EXHIBIT 2

The Subsumed Incumbent Licenses

Call Sign	Loc	Delete From License	City	County	State
KAE889	8	Location 8	BAKERSFIELD	KERN	CA
KAE889	14	Location 14	CORONA	ORANGE	CA
KAE889	26	Location 26	SALINAS	MONTEREY	CA
KAE889	27	Location 27	SAN RAFAEL	MARIN	CA
KAE889	28	Location 28	WALNUT CREEK	CONTRA COSTA	CA
KAE889	33	Location 33	LOS GATOS	SANTA CLARA	CA
KAE889	37	Location 37	MODESTO	STANISLAUS	CA
KAE889	39	Location 39	COALINGA	FRESNO	CA
KAE889	40	Location 40	PINE VALLEY	SAN DIEGO	CA
KAE889	44	Location 44	PALMDALE	LOS ANGELES	CA
WHG693	1	Frequency Block A	VENICE	PLAQUEMINES	LA
WHG701	1	Frequency Block A	SANTA ROSA BEACH	WALTON	FL
WHG702	1	Frequency Block A	THEODORE	MOBILE	AL
WHG703	1	Frequency Block A	DELISLE	HARRISON	MS
WHG705	1	Frequency Block A	AMELIA	ASSUMPTION	LA
WHG706	1	Frequency Block A	INTRACOASTAL CITY	VERMILION	LA
WHG707	1	Frequency Block A	PORT ARTHUR	JEFFERSON	TX
WHG708	1	Frequency Block A	DICKINSON	GALVESTON	TX
WHG709	1	Frequency Block A	BAY CITY	MATAGORDA	TX
WHG710	1	Frequency Block A	ARANSAS PASS	SAN PATRICIO	TX
WHG711	1	Frequency Block A	RIVIERA	KLEBERG	TX
WHG712	1	Frequency Block A	JEFFERSON HEIGHTS	JEFFERSON	LA
WHG713	1	Frequency Block A	CARVILLE	IBERVILLE	LA
WHG714	1	Frequency Block A	REDWOOD	WARREN	MS
WHG715	1	Frequency Block A	WAYSIDE	WASHINGTON	MS
WHG716	1	Frequency Block A	LAKE CORMORANT	DESOTO	MS
WHG717	1	Frequency Block A	SAMBURG	OBION	TN
WHG718	1	Frequency Block A	ALTO PASS	UNION	IL
WHG719	1	Frequency Block A	MADONNAVILLE	MONROE	IL
WHG720	1	Frequency Block A	GRAFTON	JERSEY	IL
WHG721	1	Frequency Block A	SAVERTON	RALLS	MO
WHG722	1	Frequency Block A	ADRIAN	HANCOCK	IL
WHG723	1	Frequency Block A	REYNOLDS	ROCK ISLAND	IL
WHG724	1	Frequency Block A	MILES	JACKSON	IA
WHG725	1	Frequency Block A	SHERRILL	DUBUQUE	IA
WHG726	1	Frequency Block A	MIDWAY	MASSAC	IL
WHG727	1	Frequency Block A	HEBBARDSVILLE	HENDERSON	KY
WHG728	1	Frequency Block A	ELIZABETH	FLOYD	IN
WHG729	1	Frequency Block A	BEDFORD	TRIMBLE	KY
WHG730	1	Frequency Block A	INDEPENDENCE	KENTON	KY
WHG731	1	Frequency Block A	FAIRVIEW	ADAMS	OH
WHG732	1	Frequency Block A	LETITIA	GREENUP	KY
WHG733	1	Frequency Block A	GREASY RIDGE	LAWRENCE	OH
WHG734	1	Frequency Block A	MEREDOSIA	MORGAN	IL
WHG735	1	Frequency Block A	HANNA CITY	PEORIA	IL
WHG736	1	Frequency Block A	TONICA	LA SALLE	IL
WHG737	1	Frequency Block A	LOCKPORT	WILL	IL
WHG738	1	Frequency Block A	FORDS FERRY	CRITTENDEN	KY
WHG739	1	Frequency Block A	MOOLEYVILLE	BRECKINRIDGE	KY
WHG740	1	Frequency Block A	BASHAN	MEIGS	OH
WHG741	1	Frequency Block A	BROWNSVILLE	MONROE	OH
WHG742	1	Frequency Block A	LANSING	ALLAMAKEE	IA

EXHIBIT 2

The Subsumed Incumbent Licenses

WHG743	1	Frequency Block A	WITOKA	WINONA	MN
WHG744	1	Frequency Block A	DIAMOND BLUFF	PIERCE	WI
WHG745	1	Frequency Block A	LAUREL HILL	WEST FELICIANA	LA
WHG746	1	Frequency Block A	PINE RIDGE	ADAMS	MS
WHG747	1	Frequency Block A	RENA LARA	COAHOMA	MS
WHG748	1	Frequency Block A	FULTON	LAUDERDALE	TN
WHG749	1	Frequency Block A	SHADYSIDE	BELMONT	OH
WHG750	1	Frequency Block A	HOOKSTOWN	BEAVER	PA
WHG751	1	Frequency Block A	AVALON BEACH	SANTA ROSA	FL
WHG752	1	Frequency Block A	LAKE CHARLES	CALCASIEU	LA
WHG753	1	Frequency Block A	PORT LAVACA	CALHOUN	TX
WHG754	1	Frequency Block A	RAYMONDSVILLE	WILLACY	TX
WRV374	2	Location 2	MANASSAS	PRINCE WILLIAM	VA
WRV374	3	Location 3	PHILADELPHIA	PHILADELPHIA	PA
WRV374	17	Location 17	WINTERTHUR	NEW CASTLE	DE
WRV374	24	Location 24	CONWAY	HORRY	SC
WRV374	27	Location 27	NAVASSA	BRUNSWICK	NC
WRV374	28	Location 28	SUFFOLK	Suffolk City	VA
WRV374	29	Location 29	RICHMOND	Richmond City	VA
WRV374	36	Location 36	NEW BERN	CARTERET	NC

EXHIBIT 2A
Maritime License Cancelations Granted by Commission

Call Sign	Frequency/Locations	Date Cancelled
KA98265	VHF (mobile)	5/14/2012
KCE278	Block A, 2 locations	5/22/2012
KPB531	Block A, 5 locations	5/22/2012
KUF732	Block A, 7 locations	5/22/2012
WFN	HF/VHF	5/17/2012
WHW848	Block A (mobile)	5/15/2012
WHX877	9 GHz	5/14/2012
WRD580	VHF (mobile)	5/17/2012

DECLARATION OF ROBERT T. SMITH

I, Robert T. Smith, hereby state as follows:

1. I am chief engineer for Maritime Communications/Land Mobile, LLC, ("Maritime"). I have assisted in the preparation of and reviewed the final draft of the foregoing Motion for Partial Summary Decision ("Motion") and the exhibits attached thereto, and I am personally familiar with the factual matters asserted therein.

2. Among my duties with Maritime are overseeing the operation and maintenance of the various facilities authorized under the incumbent or site-based AMTS licenses held by Maritime.


3. Waterway Communications System, Inc. ("Watercom") was the initial, original licensee of the authorizations listed in Exhibit 1 to the Motion, and defined in the Motion as the "Watercom Licenses." I am personally familiar with these Watercom Licenses and the facilities authorized pursuant, defined in the Motion as the "Watercom Stations."

4. I have been continuously involved with the operation and maintenance of the Watercom Stations since I was first employed by Watercom in November of 1987. At that time, i.e., when I came to work for Watercom, each of the Watercom Stations was fully constructed and in operation.

5. During the course of my early employment with Watercom, I learned that construction of the Watercom Stations had been completed over a period of several months in 2005 and 2006. Watercom had contracted with Tracor, Inc., a major contractor, for the design and implementation of the Watercom system. Tracor subcontracted the construction of the actual station facilities to U.S. Tower, a firm based in Frederick, Maryland.

The foregoing is true, accurate, and correct of my personal knowledge and belief and is uttered in good faith.

Subscribed and sworn to by me under penalty of perjury this ~~30th~~ ^{31st} day of August, 2012.


Robert T. Smith



153 of 186 DOCUMENTS

In the Matter of Applications of Waterway Communications System, Inc.; For Renewal of
Automated Maritime Telecommunications System Station Licenses WHG 700 - WHG
703 and WHG 705 - WHG 754

File Nos. 855083 - 855136

RELEASE-NUMBER: FCC 87-373

FEDERAL COMMUNICATIONS COMMISSION

2 FCC Rcd 7317; 1987 FCC LEXIS 2515; 64 Rad. Reg. 2d (P & F) 436

December 10, 1987 Released; Adopted November 30, 1987

ACTION:

[**1]

MEMORANDUM OPINION AND ORDER

JUDGES: By the Commission

OPINION:

[*7317] 1. We have before us for consideration: (1) the above-captioned applications for renewal of Automated Maritime Telecommunications System (AMTS) Station Licenses WHG 700 - WHG 703 and WHG 705 - WHG 754 filed March 27, 1987, by Waterway Communications System, Inc. (Watercom); (2) timely filed petitions asking us to deny, or at least defer action on, some or all of the applications, filed by: Riverphone, Inc. t/a Maritel (Maritel); the Association of Maximum Service Telecasters (MST); and KTRK, Inc. (KTRK); and (3) various responsive pleadings.

BACKGROUND

2. AMTS was developed to provide an automated, integrated, interconnected communications on the Mississippi River System as a solution to complaints from tug and barge operators that existing ship-to-shore service from numerous individual public coast stations was not adequate. Essentially the AMTS could be described as a cellular phone system, which includes non voice services as well, for tugs and barges to use as they move along an entire river system. As a result of a U.S. proposal, the 1979 World Administrative Radio Conference allocated 216 - 220 MHz to the maritime [**2] mobile service in Region 2. n1 The Commission then allocated this band for use on the & Mississippi River System. *Inland Waterways Communications System*, 84 FCC 2d 875, *recon.*, 88 FCC 2d 678 (1981), *aff* § d *sub nom.* *WJG Tel. Co., Inc. v. F.C.C.*, 675 F.2d 386 (D.C. Cir. 1982). Subsequently the Commission expanded the authorized service area of the AMTS to the Gulf Intracoastal Waterway (GIWW), 51 RR 2d 440 (1982), and the Gulf of Mexico, 56 RR 2d 1613 (1984).

2 FCC Rcd 7317, *7317; 1987 FCC LEXIS 2515, **2;
64 Rad. Reg. 2d (P & F) 436

n1 Region 2 includes the continents of North and South America.

3. Because of interference concerns and pursuant to 47 CFR § 80.385 there are 80 channels in the AMTS, divided into four groups of 20 -- Groups A, B, C and D. Groups C and D are not available for coast stations within 105 miles of a TV channel 13 station. Further, pursuant to § 80.215(h), applicants proposing to locate a coast station within 105 miles of a TV channel 13 station or 80 miles of a TV channel 10 station must submit an engineering study showing the means of avoiding interference within the Grade [**3] B contour of the TV station.

4. Watercom was initially granted authority to construct and to operate an AMTS on the Group A frequencies (August 11, 1982). Its authorization was modified to include additionally the Group B frequencies on April 5, 1984. Watercom has now completed construction of its system and is providing service to the maritime community. The instant petitions were filed against Watercom's March 27, 1987 renewal applications.

DISCUSSION

5. The petitions allege the following:"

a. Watercom filed its renewal applications too early and this is a violation of 47 CFR § 1.926(b).

b. Watercom's operations may cause interference to TV stations to a degree as yet unknown, Watercom's response to such potential interference is also unknown, and for these reasons it would be best not to grant the application at this time.

c. Granting the renewals would have an adverse effect on competition in river communications by perpetuating Watercom's monopoly of both the Group A and B channels.

d. Watercom does not need the Group B channels.

e. Watercom's service is deficient.

6. KTRK argues that Watercom's renewal applications are procedurally defective, in violation [**4] of 47 CFR § 1.926(b), because they were filed on March 27 while the licenses were not due to expire until August 11. This contention is without merit. Section 1.926(b) provides in part, "All applications for renewal of license *must* be made during the license term and *should* be filed within 90 days but not later than 30 days prior to the end of the license term." (emphasis added) According to the plain language of the rule, it is preferable but not required to file applications within 90 days of the end of the license term. Watercom's filing its applications about six weeks early does not make them defective. We note that by filing before April 1, 1987, Watercom avoided the filing fees which went into effect on that date. *See Establishment of a Fee Collection Program*, 2 FCC Rcd 947 (1987). The fee for applying for renewal of a public coast station is \$60, so Watercom's decision to file early saved it \$3240. Further, since the August 11 date has in fact now passed, whatever possible advantage that might have been obtained from an early grant of another five year term is now moot.

7. The remaining allegations are substantive and must be [**5] judged against the standards set forth in § 309(d) of the Communications Act, 47 USC § 309(d). It provides in part, with reference to petitions to deny:"

The petition shall contain specific allegations of fact sufficient to show . . . that a grant of the application would be prima facie inconsistent with [the public interest]. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof If the Commission finds on the basis of the application, the pleadings [**7318] filed, or other matters which it may officially notice that there are no substantial and material questions of fact and that a grant of the application would be consistent with [the public interest], it shall make the grant, deny the petition, and issue a concise statement of the reasons for denying the petition . . .

2 FCC Rcd 7317, *7318; 1987 FCC LEXIS 2515, **5;
64 Rad. Reg. 2d (P & F) 436

See also Columbus Broadcasting Coalition v. F.C.C., 505 F.2d 320, 323-4 (D.C. Cir. 1974) and *Stone v. F.C.C.*, 466 F.2d 316, 321-3 (D.C. Cir. 1972) and legislative history cited therein. [**6]

8. KTRK's and MST's concern is with the potential for interference to TV stations. They do not allege that there has actually been any interference. However, they ask us to deny the applications or at least to defer action on them until more is known. (KTRK's petition is directed solely at four coast stations that went on the air in December 1986 and are within 105 miles of its TV channel 13 transmitter site.) In essence they recite that Watercom has been on the air only a short time, the potential for interference could be greater than originally expected, and should interference occur Watercom might fail to remedy it. In view of its concerns and Watercom's short operating record, KTRK asks to be permitted to supplement its petition to deny up to August 10, and MST asks that the date to file petitions to deny be extended until March 1, 1988.

9. KTRK's and MST's petitions fall far short of raising any questions which would bar a grant of Watercom's applications. Not only are their allegations speculative - indeed to this date the Commission has not received any complaint suggesting that Watercom's operations are actually causing interference to any TV station. Additionally, [**7] the AMTS rules contain provisions which provide a definitive answer to their concerns. Section 80.215(h) states that operation of AMTS coast stations is "subject to the condition that no harmful interference will be caused to television reception and contains various provisions relating to protection of TV stations from interference. In particular, § 80.215(h)(4) provides:

The applicant must eliminate any interference caused by its operation to TV reception within the Grade B contour that might develop within 90 days of the time it is notified in writing by the Commission. If this interference is not removed within the 90-day period, operation of the coast station must be discontinued. The licensee is expected to help resolve all complaints of interference, whether inside or outside the Grade B contour.

10. KTRK claims that § 80.215(h)(4) cannot be relied on because it is not sufficiently detailed and has not been tested in practice. This argument is tenuous and must be rejected. The Commission has structured the AMTS so as to avoid interference to television. Various provisions in §§ 80.385 and 80.215(h) concern the allocation and assignment of frequencies to prevent the [**8] authorization of any stations which would cause interference. Section 80.215(h)(4) deals with any interference which might possibly arise in spite of these other provisions.

11. Maritel's petition directly concerns Watercom's maritime service. It asks us either to deny the applications, or in the alternative to hold them in abeyance and require Watercom to demonstrate that it can serve the public interest and that it needs all 40 channels that it has been authorized. Maritel states that granting the applications would be anticompetitive, continuing the monopoly that Watercom has enjoyed on the rivers with the use of both the Group A and Group B channels. Maritel states that Watercom has not shown that it needs the Group B channels and that it tied up this spectrum during almost five years while it was constructing its system. Maritel notes that it has on file an application for an AMTS using the Group C channels but indicates it would vastly prefer to have the Group B channels if available. Finally, it claims that Watercom made misrepresentations concerning the inception of its service, that its subscribers are unhappy with the service, and that its service is generally deficient. [**9]

12. Maritel's claims that granting Watercom's renewal applications would have an adverse effect on competition and that Watercom has not justified its need for the Group B channels are intertwined, but equally unsupported. Maritel has failed to make any specific allegations of fact to show an adverse effect on competition or to show that Watercom does not need the Group B channels. All Maritel states is that Watercom has obtained both the Group A and Group B channels and that these are the desirable channels to use given the restrictions on use of the Groups C and D channels. It further states generally that with channel reuse fewer channels would be needed.

13. Maritel appears to argue that Watercom has an illegal monopoly simply because it has the only AMTS on the rivers at present. We observe that competition for its own sake is not a public interest absolute. *F.C.C. v. RCA*

2 FCC Rcd 7317, *7318; 1987 FCC LEXIS 2515, **9;
64 Rad. Reg. 2d (P & F) 436

Communications, Inc., 346 U.S. 86, 89 - 95 (1953). Further, we have always considered that conventional public coast stations would continue to exist and provide competition to any AMTS. See 84 FCC 2d at 890-1. The WJG court noted this [**10] as well and referred to a filing by Maritel's predecessor, Rivercom, which suggested that the conventional public coast stations would continue to be more attractive on a price per call basis (while the convenience and range of services offered by AMTS would be superior). 675 F.2d at 391. Indeed Maritel's pending application for Group C channels suggests that it believes that it can provide a competitive service using those channels.

14. We note that Maritel, which has opposed Watercom in filings before the Commission for several years, did not oppose the original grant of the Group B channels to Watercom nor did it protest the extension of time which allowed Watercom its full five year license term to become operational. However, it did question Watercom's authorization for the Group B frequencies in a recent exchange of pleadings with Watercom, and we considered and rejected its argument that Watercom had illegally monopolized AMTS service by becoming authorized for both the Group A and B channels. *Complaint of Waterway Communications Systems, Inc. against Riverphone, Inc.*, 2 FCC Rcd 241 (1987), recon., FCC 87-258, [**11] released August 17, 1987. As to Maritel's stated preference for the Group B channels over the Group C channels, while it could have filed competing applications for the Group B channels against Watercom's renewal applications, it did not do so.

15. Maritel supports its claim concerning dissatisfaction with Watercom's service with an affidavit of Charles J. Drobny, which recites that he is Maritel's Vice President of Engineering and Marketing and has nine years experience [**7319] working in the inland marine towing industry. His affidavit concerning the industry's alleged dissatisfaction with Watercom and its service made only two allegations that meet the test of "specific allegations of fact . . . supported by affidavit of a person . . . with personal knowledge presenting "a substantial and material question of fact" set forth in Section 309(d).

16. Mr. Drobny alleges that he attempted to make 10 calls, to two boats operating on the Mississippi, and only succeeded in completing six, on the dates April 24 - 26, 1987. This allegation fails to raise a substantial and material question of fact concerning Watercom's qualifications to be a licensee. He also alleges that a representative [**12] of Watercom told him in the fall of 1985 that service was imminent when it did not actually commence until the end of 1986. Watercom disputes this allegation. However, not every factual dispute warrants resolution in a hearing. *Stone v. F.C.C.*, 466 F.2d 316, 323 (D.C. Cir. 1972). Moreover, Watercom was required to meet a schedule of construction, regularly kept us apprised of the status of construction and put the system into operation within the time we had allowed. So there can be no question of spectrum hoarding or other dereliction in its inauguration of service.

CONCLUSION

17. Petitioners have failed to present any substantial or material question of fact concerning Watercom's qualification to continue as licensee of the captioned AMTS stations.

18. Accordingly, IT IS ORDERED, That the petitions filed by Maritel, MST and KTRK ARE DENIED, and the applications for renewal of licenses for AMTS stations WHG 700 - WHG 703 and WHG 705 - WHG 754 ARE GRANTED for a five year term.

FEDERAL COMMUNICATIONS COMMISSION

William A. Tricarico

Secretary

Legal Topics:

For related research and practice materials, see the following legal topics:

Administrative Law Agency Adjudication Hearings Evidence Official Notice Communications

EXHIBIT 5

Maritime Applications to Cancel or Delete Subsumed Incumbent Facilities

Call Sign	File No.	Date Filed	Status	Application Purpose
KA98265	0005210655	5/14/2012	Granted	Cancel License
KCE278	0005223604	5/17/2012	Granted	Cancel License
KPB531	0005223606	5/17/2012	Granted	Cancel License
KUF732	0005223607	5/17/2012	Granted	Cancel License
WFN	0005210663	5/14/2012	Granted	Cancel License
WHW848	0005214809	5/15/2012	Granted	Cancel License
WHX877	0005210664	5/14/2012	Granted	Cancel License
WRD580	0005210665	5/14/2012	Granted	Cancel License
KAE889	0005223613	5/30/2012	Pending	Delete Locations 8, 14, 26, 27, 28, 33, 37, 39, 40 & 44
WHG693	0005225320	5/29/2012	Pending	Delete Block A Frequencies
WHG701	0005225324	5/29/2012	Pending	Delete Block A Frequencies
WHG702	0005224246	5/29/2012	Pending	Delete Block A Frequencies
WHG703	0005224253	5/29/2012	Pending	Delete Block A Frequencies
WHG705	0005224257	5/29/2012	Pending	Delete Block A Frequencies
WHG706	0005224262	5/29/2012	Pending	Delete Block A Frequencies
WHG707	0005224267	5/29/2012	Pending	Delete Block A Frequencies
WHG708	0005224278	5/29/2012	Pending	Delete Block A Frequencies
WHG709	0005224282	5/29/2012	Pending	Delete Block A Frequencies
WHG710	0005224287	5/29/2012	Pending	Delete Block A Frequencies
WHG711	0005224291	5/29/2012	Pending	Delete Block A Frequencies
WHG712	0005224300	5/29/2012	Pending	Delete Block A Frequencies
WHG713	0005224303	5/29/2012	Pending	Delete Block A Frequencies
WHG714	0005224309	5/29/2012	Pending	Delete Block A Frequencies
WHG715	0005224311	5/29/2012	Pending	Delete Block A Frequencies
WHG716	0005224316	5/29/2012	Pending	Delete Block A Frequencies
WHG717	0005224324	5/29/2012	Pending	Delete Block A Frequencies
WHG718	0005224330	5/29/2012	Pending	Delete Block A Frequencies
WHG719	0005224336	5/29/2012	Pending	Delete Block A Frequencies
WHG720	0005224339	5/29/2012	Pending	Delete Block A Frequencies
WHG721	0005224371	5/29/2012	Pending	Delete Block A Frequencies
WHG722	0005224952	5/29/2012	Pending	Delete Block A Frequencies
WHG723	0005224953	5/29/2012	Pending	Delete Block A Frequencies
WHG724	0005224957	5/29/2012	Pending	Delete Block A Frequencies
WHG725	0005224959	5/29/2012	Pending	Delete Block A Frequencies
WHG726 *	0005224979	5/29/2012	Dismissed	Delete Block A Frequencies
WHG727	0005224982	5/29/2012	Pending	Delete Block A Frequencies
WHG728	0005224985	5/29/2012	Pending	Delete Block A Frequencies
WHG729	0005224987	5/29/2012	Pending	Delete Block A Frequencies
WHG730	0005224988	5/29/2012	Pending	Delete Block A Frequencies
WHG731	0005224993	5/29/2012	Pending	Delete Block A Frequencies
WHG732	0005224995	5/29/2012	Pending	Delete Block A Frequencies

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

FILED/ACCEPTED
MAY 31 2012
Federal Communications Commission
Office of the Secretary

In re)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of)	
Various Authorizations in the Wireless Radio)	
Services)	
)	
Applicant for Modification of Various	)	Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028, 0004193328,
	)	0004354053, 0004309872, 0004310060,
Applicant with ENCANA OIL AND GAS (USA),	)	0004314903, 0004315013, 0004430505,
INC.; DUQUESNE LIGHT COMPANY; DCP	)	0004417199, 0004419431, 0004422320,
MIDSTREAM, LP; JACKSON COUNTY	)	0004422329, 0004507921, 0004153701,
RURAL MEMBERSHIP ELECTRIC	)	0004526264, 0004636537,
COOPERATIVE; PUGET SOUND ENERGY,	)	and 0004604962
INC.; ENBRIDGE ENERGY COMPANY,)	
INC.; INTERSTATE POWER AND LIGHT)	
COMPANY; WISCONSIN POWER AND)	
LIGHT COMPANY; DIXIE ELECTRIC)	
MEMBERSHIP CORPORATION, INC.;)	
ATLAS PIPELINE – MID CONTINENT, LLC;)	
DENTON COUNTY ELECTRIC)	
COOPERATIVE, INC., DBA COSERV)	
ELECTRIC; AND SOUTHERN CALIFORNIA)	
REGIONAL RAIL AUTHORITY)	

To: Marlene H. Dortch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

LIMITED JOINT STIPULATION
BETWEEN ENFORCEMENT BUREAU AND MARITIME
AND PROPOSED SCHEDULE

1. During the May 22, 2012 prehearing conference, and by Order, FCC 12M-26 (ALJ, rel. May 23, 2012), the Presiding Judge directed the Enforcement Bureau (Bureau) and Maritime Communications/Land Mobile, LLC (Maritime) to “reduce to Stipulation the operational status of Maritime’s licensed stations, the dates of construction and commencement

of operations as the Bureau has been seeking by a series of interrogatories.”¹ The Presiding Judge also directed the parties to include in this Stipulation proposed tentative new hearing and procedural dates.

LIMITED JOINT STIPULATION

2. Pursuant to the Presiding Judge’s directions, the Bureau and Maritime agreed to the following limited stipulations.²

3. These stipulations are entered into solely for the purposes of the above-captioned proceeding.

4. Maritime has filed applications to cancel the following site-based authorizations, the applications have been granted, and the licenses have been cancelled:

Call Sign	Location
KA98265	All locations
KCE278	All locations
KPB531	All locations
KUF732	All locations
WFN	All locations
WHW848	All locations
WHX877	All locations
WRD580	All locations

5. Maritime has filed applications to modify the following site-based authorizations by deleting the following locations, and such locations shall be treated as “deleted” from these authorizations:

Call Sign	Location
KAE889	8
KAE889	14
KAE889	26
KAE889	27

¹ See Order, FCC 12M-26 (ALJ, rel. May 23, 2012).

² The Bureau and Maritime could not agree to “reduce to Stipulation” the operational status of all of Maritime’s licensed stations or the dates of construction and commencement of operations of all of Maritime’s licensed stations. To the extent necessary, the parties will submit separate pleadings to explain their continuing discovery concerns.

Call Sign	Location
KAE889	28
KAE889	33
KAE889	37
KAE889	39
KAE889	40
KAE889	44

6. Maritime has filed applications to modify the following site-based authorizations by deleting the following frequencies and such frequencies shall be treated as deleted from these licenses:

Call Sign	Frequency
WHG693	Block A
WHG701	Block A
WHG702	Block A
WHG703	Block A
WHG705	Block A
WHG706	Block A
WHG707	Block A
WHG708	Block A
WHG709	Block A
WHG710	Block A
WHG711	Block A
WHG712	Block A
WHG713	Block A
WHG714	Block A
WHG715	Block A
WHG716	Block A
WHG717	Block A
WHG718	Block A
WHG719	Block A
WHG720	Block A
WHG721	Block A
WHG722	Block A
WHG723	Block A
WHG724	Block A
WHG725	Block A
WHG726	Block A
WHG727	Block A
WHG728	Block A
WHG729	Block A
WHG730	Block A

Call Sign	Frequency
WHG731	Block A
WHG732	Block A
WHG733	Block A
WHG734	Block A
WHG735	Block A
WHG736	Block A
WHG737	Block A
WHG738	Block A
WHG739	Block A
WHG740	Block A
WHG741	Block A
WHG742	Block A
WHG743	Block A
WHG744	Block A
WHG745	Block A
WHG746	Block A
WHG747	Block A
WHG748	Block A
WHG749	Block A
WHG750	Block A
WHG751	Block A
WHG752	Block A
WHG753	Block A
WHG754	Block A

7. The following locations of the following site-based authorizations shall be treated as “deleted” from these authorizations:

Call Sign	Frequency
WRV374	2
WRV374	3
WRV374	17
WRV374	24
WRV374	27
WRV374	28
WRV374	29
WRV374	36

8. The following locations and frequencies of the following site-based authorizations have not cancelled and shall not be treated as deleted:

Call Sign	Frequency
KAE889	3
KAE889	4
KAE889	6
KAE889	12
KAE889	13
KAE889	20
KAE889	22
KAE889	30
KAE889	34
KAE889	46
KAE889	48
WHG693	Block B
WHG701	Block B
WHG702	Block B
WHG703	Block B
WHG705	Block B
WHG706	Block B
WHG707	Block B
WHG708	Block B
WHG709	Block B
WHG710	Block B
WHG711	Block B
WHG712	Block B
WHG713	Block B
WHG714	Block B
WHG715	Block B
WHG716	Block B
WHG717	Block B
WHG718	Block B
WHG719	Block B
WHG720	Block B
WHG721	Block B
WHG722	Block B
WHG723	Block B
WHG724	Block B
WHG725	Block B
WHG726	Block B
WHG727	Block B
WHG728	Block B
WHG729	Block B
WHG730	Block B
WHG731	Block B
WHG732	Block B
WHG733	Block B
WHG734	Block B

Call Sign	Frequency
WHG735	Block B
WHG736	Block B
WHG737	Block B
WHG738	Block B
WHG739	Block B
WHG740	Block B
WHG741	Block B
WHG742	Block B
WHG743	Block B
WHG744	Block B
WHG745	Block B
WHG746	Block B
WHG747	Block B
WHG748	Block B
WHG749	Block B
WHG750	Block B
WHG751	Block B
WHG752	Block B
WHG753	Block B
WHG754	Block B
WHV733	1
WHV733	2
WHV733	3
WHV740	2
WHV843	1
WHV843	5
WHV843	6
WRV374	8
WRV374	12
WRV374	14
WRV374	15
WRV374	16
WRV374	18
WRV374	19
WRV374	20
WRV374	22
WRV374	23
WRV374	25
WRV374	26
WRV374	31
WRV374	33
WRV374	34
WRV374	35
WRV374	39
WRV374	40

9. The site-based facility listed below has not provided any service and has not operated since sometime in 2004:

Call Sign	Frequency
WHG701	Block B

10. The site-based facilities listed below have not provided any service and have not operated since sometime in 2005:

Call Sign	Frequency
WHG693	Block B
WHG707	Block B

11. The site-based facility listed below have not provided any service and have not operated since sometime in 2008:

Call Sign	Frequency
WHG711	Block B

12. The site-based facility listed below has not provided any service and has not operated since May 2009:

Call Sign	Frequency
WHG706	Block B

13. The site-based facility listed below has not provided any service and has not operated since October 2009:

Call Sign	Frequency
WHG753	Block B

14. The site-based facility listed below has not provided any service and has not operated since sometime in 2010:

Call Sign	Frequency
WHG745	Block B

15. The site-based facility listed below has not provided any service and has not operated since January 2010:

Call Sign	Frequency
WHG740	Block B

16. The site-based facility listed below has not provided any service and has not operated since February 2010:

Call Sign	Frequency
WHG738	Block B

17. The site-based facilities listed below have not provided any service and have not operated since March 2010:

Call Sign	Frequency
WHG731	Block B
WHG732	Block B
WHG749	Block B

18. The site-based facilities listed below have not provided any service and have not operated since April 2010:

Call Sign	Frequency
WHG718	Block B
WHG705	Block B

19. The site-based facilities listed below have not provided any service and have not operated since May 2010:

Call Sign	Frequency
WHG727	Block B
WHG742	Block B
WHG744	Block B
WHG747	Block B

20. The site-based facilities listed below have not provided any service and have not operated since June 2010:

Call Sign	Frequency
WHG713	Block B
WHG748	Block B

21. The site-based facilities listed below have not provided any service and have not operated since August 2010:

Call Sign	Frequency
WHG717	Block B
WHG728	Block B

22. The site-based facility listed below has not provided any service and has not operated since September 2010:

Call Sign	Frequency
WHG730	Block B

23. The site-based facility listed below has not provided any service and has not operated since October 2010:

Call Sign	Frequency
WHG736	Block B

24. The site-based facility listed below has not provided any service and has not operated since December 2010:

Call Sign	Frequency
WHG729	Block B

25. The site-based facility listed below has not provided any service and has not operated since sometime in 2011:

Call Sign	Frequency
WHG754	Block B

26. The site-based facility listed below has not provided any service and has not operated since January 2011:

Call Sign	Frequency
WHG724	Block B

27. The site-based facility listed below has not provided any service and has not operated since May 2011:

Call Sign	Frequency
WHG722	Block B

28. The site-based facility listed below has not provided any service and has not operated since August 2011:

Call Sign	Frequency
WHG739	Block B

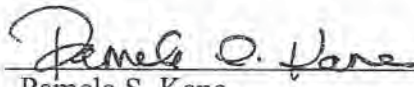
TENTATIVE NEW HEARING AND PROCEDURAL DATES

29. As directed by Order, FCC 12M-26 (ALJ, rel. May 23, 2012), the Bureau and Maritime propose the following tentative new hearing and procedural dates. These proposed dates take into consideration the intervening Thanksgiving, Christmas, New Year's and other Federal holidays:

Discovery Completed	November 21, 2012	Wed.
Direct Cases Exchanged	December 21, 2012	Fri.
Witness Notification	January 7, 2013	Mon.
Evidence Admission Session	January 23, 2013	Wed.
Trial Briefs EB, Maritime, Skytel	February 4, 2012	Mon.
Hearing Commences	February 26, 2012	Tues.

30. Maritime, by its respective counsel, represents that it has read this Limited Joint Stipulation Between Enforcement Bureau And Maritime And Proposed Schedule, concurs with the statements therein, and has authorized the undersigned to file this document on its behalf.

Respectfully submitted,
P. Michele Ellison
Chief, Enforcement Bureau


Pamela S. Kane
Deputy Chief
Investigations and Hearings Division
Enforcement Bureau

Brian J. Carter
Attorney
Investigations and Hearings Division
Enforcement Bureau

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
MARITIME COMMUNICATIONS/LAND	)	EB Docket No. 11-71
MOBILE, LLC	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of Various)	
Authorizations in the Wireless Radio Services)	
Applicant for Modification of Various Authorizations)	
in the Wireless Radio Services;)	
)	
Applicant with ENCANA OIL AND GAS (USA), INC.;	)	Application File Nos.
DUQUESNE LIGHT COMPANY; DCP	)	0004030479, 0004144435,
MIDSTREAM, LP; JACKSON COUNTY RURAL	)	0004193028, 0004193328,
MEMBERSHIP ELECTRIC COOPERATIVE; PUGET	)	0004354053, 0004309872,
SOUND ENERGY, INC.; ENBRIDGE ENERGY	)	0004310060, 0004314903,
COMPANY, INC.; INTERSTATE POWER AND	)	0004315013, 0004430505,
LIGHT COMPANY; WISCONSIN POWER AND	)	0004417199, 0004419431,
LIGHT COMPANY; DIXIE ELECTRIC	)	0004422320, 0004422329,
MEMBERSHIP CORPORATION, INC.; ATLAS	)	0004507921, 0004153701,
PIPELINE—MID CONTINENT, LLC; DENTON	)	0004526264, 0004636537,
COUNTY ELECTRIC COOPERATIVE, INC., DBA	)	and 0004604962
COSERV ELECTRIC; AND SOUTHERN)	
CALIFORNIA REGIONAL RAIL AUTHORITY)	
)	
For Commission Consent to the Assignment of Various)	
Authorizations in the Wireless Radio Services)	

To: Marlene H. Dortch, Secretary
Attn: The Honorable Richard L. Sippel, Chief Administrative Law Judge

VERIFICATION AND SIGNATURE OF JOINT STIPULATIONS

This filing is being made on behalf of Maritime Communications/Land Mobile, LLC
(Maritime) in response to the Presiding Judge's June 5, 2012, Order (FCC 12M-27).

On May 31, 2012, the Enforcement Bureau submitted, jointly on its own behalf and on behalf of Maritime, the *Limited Joint Stipulation Between Enforcement Bureau and Maritime and Proposed Schedule*. The title of the document as well as the language of paragraph 2 thereof clearly identified these as stipulations entered into between both of the parties. Paragraph 30 of

the filing further stated: “Maritime, by its respective counsel, represents that it has read this Limited Joint Stipulation Between Enforcement Bureau And Maritime And Proposed Schedule, concurs with the statements therein, and has authorized the undersigned to file this document on its behalf.”

As the Presiding Judge notes, however, the stipulations are not actually signed by counsel for Maritime. This oversight was due to an apparent misunderstanding between respective counsel for the Bureau and Maritime. Once the joint stipulations had been agreed to, counsel for Maritime authorized Bureau counsel to sign the filing on his behalf. See the attached copy of the relevant email exchange between counsel. Insofar as this was a joint filing, it was assumed that both parties would be added to the signature block, and Bureau counsel would use a subscript notation or other indication that it was signing undersigned counsel’s name. In lieu of this approach, the Bureau included only itself in the signature block but, as stated above, did style the filing as joint stipulations and included the previously quoted language in Paragraph 30.

To avoid any confusion, but this filing, by his signature below, undersigned counsel hereby verifies that Maritime has agreed to the joint stipulations.

Respectfully Submitted,



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Dated: June 7, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of August, 2012, I caused copies of the foregoing pleading to be served, by U.S. Postal Service, First Class postage prepaid, on the following:

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